

ESTTA Tracking number: **ESTTA604099**Filing date: **05/13/2014**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**Notice of Opposition**

Notice is hereby given that the following party opposes registration of the indicated application.

**Opposer Information**

Name	Egghart & Associates, LLC
Granted to Date of previous extension	06/04/2014
Address	5585 Kietzke Lane Reno, NV 89511 UNITED STATES
Attorney information	Ian Burns ATIP Law 4790 Caughlin Pkwy #701 Reno, NV 89519 UNITED STATES Firm@ATIPLaw.com Phone:7758266160

**Applicant Information**

Application No	85595982	Publication date	02/04/2014
Opposition Filing Date	05/13/2014	Opposition Period Ends	06/04/2014
Applicant	Egghart, Eunjoo K 5140 Birch Street Suite 200 Newport Beach, CA 92660 UNITED STATES		

**Goods/Services Affected by Opposition**

Class 041. First Use: 0 First Use In Commerce: 0

All goods and services in the class are opposed, namely: Educational services, namely, conducting seminars in the field of accounting, auditing and technology and distribution of educational materials in connection therewith

**Grounds for Opposition**

Priority and likelihood of confusion	Trademark Act section 2(d)
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**Mark Cited by Opposer as Basis for Opposition**

U.S. Application No.	85617348	Application Date	05/04/2012
Registration Date	NONE	Foreign Priority Date	NONE
Word Mark	EGGHART		

Design Mark	EGGHART
Description of Mark	NONE
Goods/Services	Class 035. First use: First Use: 2000/10/06 First Use In Commerce: 2000/10/06 Accounting services

Attachments	85617348#TMSN.jpeg( bytes ) Notice of Opposition 85595982.pdf(44815 bytes )
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### **Certificate of Service**

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/ian f burns/
Name	Ian Burns
Date	05/13/2014

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**  
**BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Application Serial No. 85/595,982  
Filed: April 12, 2012  
Mark: EJ EGGHART  
Published on February 4, 2014

Egghart & Associates, LLC,

Opposer,

vs.

Eunjoo K. Egghart,

Applicant.

Opposition No. \_\_\_\_\_

**NOTICE OF OPPOSITION**

**NOTICE OF OPPOSITION**

Opposer Egghart & Associates, LLC (“Opposer”), a Nevada limited liability company having a principle place of business located in Reno, Nevada, hereby opposes registration of the mark EJ EGGHART (hereinafter the “EJ EGGHART Mark”) that is the subject of application Serial No. 85/595,982, published in the *Official Gazette* on February 4, 2014, and requests that registration to Eunjoo K. Egghart (“Applicant”) be refused.

As grounds in support of its opposition, Opposer asserts as follows:

1. Opposer is the owner of U.S.P.T.O. Serial Number 85/617,348 for the mark EGGHART in international class 035 for "accounting services" (hereinafter the "EGGHART Mark"), and all of the business and goodwill represented thereby, for its EGGHART branded services.

2. Since 2000, and well prior to Applicant's filing date, Opposer has used the EGGHART Mark in interstate commerce throughout the United States in connection with its accounting services.

3. By reason of the extensive promotion, advertising, and provision of high-quality services provided by Opposer in conjunction with the EGGHART Mark, the public and trade have come to recognize services offered in conjunction with this mark as signifying Opposer and its accounting services. Opposer derives substantial goodwill and value from such identification by the consuming public and trade.

4. In addition to its many years of use under the EGGHART Mark, in 2008 Opposer purchased all right, title and interest to the assets and good will associated with Applicant's accounting business, including the EJ EGGHART Mark, for a total purchase price of \$2,739,127.00. It is well established in trademark law that when a business is sold, the trademark is assumed to be transferred with the business. *Iskenderian v. Iskenderian*, 144 Cal.App.4th 1162, 1169-1170, 51 Cal.Rptr.3d 163, 168 (Cal.App. 2 Dist.,2006). **“Good will and its trademark symbol are as inseparable as Siamese Twins who cannot be separated without death to both. A trademark has no independent significance apart from the good will it symbolizes.”** 2 McCarthy, *Trademarks and Unfair Competition* (4th ed.1992) § 18:2 (emphasis added); *see also United Drug Co. v. Theodore Rectanus Co.*, 248 U.S. 90, 63 L. Ed. 141, 39 S. Ct. 48 (1918); *Am. Steel Foundries v. Robertson*, 269 S.S. 372, 70 L. Ed. 317, 46 S. Ct. 160 (1926).

5. Notwithstanding Opposer's long prior rights and goodwill in the EGGHART Mark and purchase of Applicant's business and mark, Applicant has filed an application, Serial No. 85/595,982, for the registration of the EJ EGGHART Mark for “Educational services,

namely, conducting seminars in the field of accounting, auditing, and technology and distribution of educational materials in connection therewith” in Class 041 (the “Application”). The Application was filed on April 12, 2012.

6. There is no issue as to priority. The Application, which was originally filed as a “use” application under section 1(A) and has been amended to an “intent-to-use” application under section 1(B), was filed long after the date when Opposer first used the EGGHART Mark for its services.

7. Applicant's EJ EGGHART Mark is substantially similar to Opposer’s EGGHART Mark, and is applied to services very similar, if not identical, to those offered by Opposer. The Applicant’s mark so closely resembles Opposer's previously used EGGHART Mark as to be likely, when applied to the services set forth in the Application, to cause confusion, mistake, or deception within the meaning of Section 2(d) of the Trademark Act.

8. If Applicant is permitted to use and register its EJ EGGHART Mark for its services, as specified in the Application herein opposed, confusion in the trade resulting in damage and injury to Opposer would be caused and would result by reason of the similarity between the EJ EGGHART Mark and the Opposer’s EGGHART Mark. Persons familiar with the services provided under Opposer’s EGGHART Mark would be likely to engage Applicant’s services as believing they were services provided by, or sponsored or approved by, the Opposer. Any such confusion in trade would result in loss of business to Opposer. Furthermore, any objection or fault found with Applicant’s services marketed under its EJ EGGHART Mark would necessarily reflect upon and injure the reputation that Opposer has established for its services provided under its EGGHART Mark.

9. If Applicant were granted the registration herein opposed, it would thereby obtain at least a *prima facie* exclusive right to the use of its mark. Such registration would be a source of damage and injury to the Opposer in violation and derogation of the prior and superior statutory and common law rights of Opposer.

WHEREFORE, Opposer prays that this Opposition be sustained and that application Serial No. 85/595,982, for the EJ EGGHART Mark, for the services therein specified, be refused registration, and for such other relief as may be deemed just and proper.

A duplicate copy of this Notice of Opposition and the fee required in §2.6(1) are enclosed herewith.

DATED: May 13, 2014

/s/ Ian Burns

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Attorney for Opposer  
Egghart & Associates, LLC

### **Certificate of Service**

I hereby certify that a true and complete copy of the foregoing Notice of Opposition has been served on Eunjoo J. Egghart through counsel of record, Eric O. Haugen, by mailing said copy on May 13, 2014, via First Class Mail, postage prepaid to:

Eric O. Haugen  
Jacobson, Buffalo, Magnuson, Anderson &  
335 Atrium Office Building 1295 Bandana Boulevard  
St. Paul, MN 55108

/s/ Ian Burns

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Attorney for Opposer  
Egghart & Associates, LLC